

Wade Aaron Limehouse,)	No. CV-22-01063-PHX-SPL
)	
Petitioner,)	ORDER
vs.)	
)	
David Shinn, et al.,)	
)	
Respondents.)	

The parties did not file objections, which relieves the Court of its obligation to

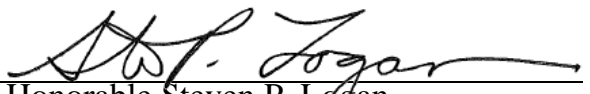
¹ Petitioner filed a notice of appeal from the Report & Recommendation (Doc. 18). Because that order is patently not appealable, it does not deprive this Court of jurisdiction to rule on the Report & Recommendation. *See Nascimento v. Dummer*, 508 F.3d 905, 908 (9th Cir. 2007) (“When a Notice of Appeal is defective in that it refers to a non-appealable interlocutory order, it does not transfer jurisdiction to the appellate court, and so the ordinary rule that the district court cannot act until the mandate has issued on the appeal does not apply.”).

1 review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149
 2 (1985) (“[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is
 3 not the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must
 4 determine de novo any part of the magistrate judge’s disposition that has been properly
 5 objected to.”). The Court has nonetheless reviewed the R&R and finds that it is well-taken.
 6 The Court will adopt the R&R and deny the Petition. *See* 28 U.S.C. § 636(b)(1) (stating
 7 that the district court “may accept, reject, or modify, in whole or in part, the findings or
 8 recommendations made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge
 9 may accept, reject, or modify the recommended disposition; receive further evidence; or
 10 return the matter to the magistrate judge with instructions.”). Accordingly,

11 **IT IS ORDERED:**

- 12 1. That Magistrate Judge Michael T. Morrissey’s Report and Recommendation
 13 (Doc. 17) is **accepted** and **adopted** by the Court;
- 14 2. That the Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C.
 15 § 2254 (Doc. 4) is **denied** and **dismissed with prejudice**;
- 16 3. That a certificate of appealability and leave to proceed *in forma pauperis* on
 17 appeal are **denied**; and
- 18 4. That the Clerk of Court shall **terminate** this action.

19 Dated this 22nd day of March, 2023.

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 22 Honorable Steven P. Logan
 23 United States District Judge
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